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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,256	07/03/2003	Gerhard Reichert	1663-AI	4893
7590	09/22/2006		EXAMINER	
Fred H. Zollinger III P.O. Box 2368 North Canton, OH 44720			AMIRI, NAHID	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/613,256

**Applicant(s)**

REICHERT, GERHARD

**Examiner**

Nahid Amiri

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 62-93 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 62-93 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 06/26/2006.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### Response to Amendment

In view of Applicant's Amendment received 26 June 2006, amendments to the claims have been entered. Claims 1-61 are canceled. Claims 62-93 are pending.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

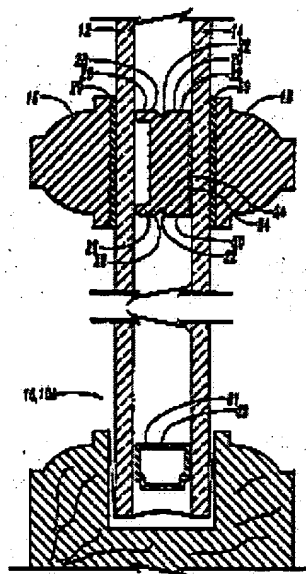
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 62-68, 70-76, and 78-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,345,743 Baier in view of US Patent No. 5,732,517 Milikovsky.**

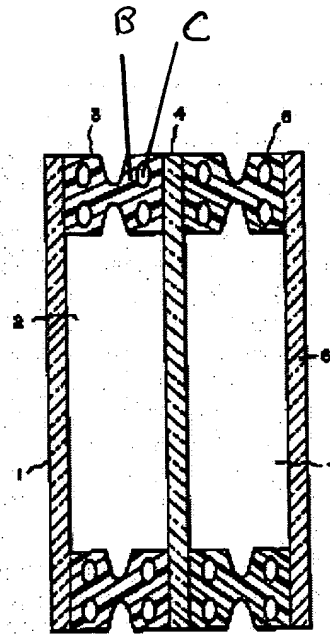
With respect to claims 62-68, 70-76, and 78-83, Baier discloses a simulated divided lite insulating glazing unit (Fig. 4) comprising first and second spaced glass panes (12, 14) spaced apart by a perimeter spacer (12), the first and second glass panes (12, 14) and spacer (12) defining a gap, a resilient foam internal muntin bar (22) disposed inside the gap which inherently is capable of being rolled into a roll for storage and shipping and then unrolled for application to the glass; the internal muntin bar (22) dividing the gap into separate portions to provide a divided-lite appearance to the glazing unit; the internal muntin bar (22) having a body having a Longitudinal direction, the body having opposed base walls (24) separated by the height of the body; one of the base walls (24) having an adhesive (34) that connects the base wall (24) to an inner surface of one of the glass panes (14); the base wall having the adhesive (34) defining a body width the body being formed from a body material. Baier does not disclose the body defining at least one open insulating cavity, the insulating cavity having a cross sectional area

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measured along a cross section taken through the cavity perpendicular to the longitudinal direction of the body; the insulating cavity being surrounded by the body; and the body material having a cross sectional area when measured along across section taken perpendicular to the longitudinal direction of the body; the cross sectional area of the body material being larger than the cross sectional area of the insulating cavity; wherein the body defines a plurality of insulating cavities which each cavities extending continuously in the longitudinal direction; and cavities are spaced from one another; wherein the cavity has a width, the space between the cavities being equal to or greater than the width of either cavity. Milikovsky teaches a window unit (Fig. 2) having glass panes and a muntin bar (3) between glass panes (2 and 4); the muntin bar (3) defining a body (B, see attachment), the body (B) defining a plurality of insulating cavities (C, see attachment) which also includes a limitation of having at least one cavity; the insulating cavity (C) having a cross sectional area inherently measured along a cross section taken through the cavity (C) perpendicular to the longitudinal direction of the body; the insulating cavity (C) being surrounded by the body (B); and the body material (B) having across sectional area when measure along a cross section taken perpendicular to the longitudinal direction of the body (B); the cross section of body material (B) being larger than the cross sectional area of the insulating cavity (C); wherein the body (B) defining a longitudinal direction; and each of the insulating cavity (C) extending continuous in the longitudinal direction; the cavities (C) are spaced apart from one another; and wherein the cavity (C) has a width, the space between the cavities (C) being equal to or greater than the width of either cavity. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide the muntin bar of Baier with a plurality of cavities as taught by Milikovsky in order to reduce the cost of constructing a window unit and create a light weight unit.



**Fig. 4**



**FIG. 1**  
**STATE OF THE ART**

**Claims 69, 77, and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baier and Milikovsky as applied to claims 62-68, 70-76, and 78-83 above, and further in view of US Patent No. 5,156,894 Hood et al.**

With respect to claims 69, 77, and 84, Baier and Milikovsky disclose the claimed invention except that the body includes a desiccant. Hood et al. teach (Fig. 1, column 5, lines 18-21) the body (22) is formed from foam, and wherein the foam includes a desiccant. It would have been obvious to one of ordinary skill in the art at the time of invention was made to form the body of Milikovsky to includes a desiccant as taught by Hood et al. in order to provide a body with ability to prevents a build up of moisture between layers.

**Claims 85-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baier in view of Milikovsky, and further in view of US Patent No. 5,156,894 Hood et al.**

With respect to claims 85-93, Baier and Milikovsky disclose the claimed invention as stated above in claims 62-68, 70-76, and 78-83, except that the body fabricated from foam polymer and the foam includes a desiccant. Hood et al., teach (Fig. 1, column 5, lines 13-17) that the body (22) is formed from foam polymer and the foam includes a desiccant. It would have been obvious to one of ordinary skill in the art at the time of invention was made to form the body of Baier from foam polymer and the foam includes desiccant as taught by Hood et al. in

order to provide the body with durability and high exceptional thermal insulation performance, and to provide a body with ability to prevents a build up of moisture between layers.

### ***Response to Arguments***

Applicant's arguments filed 26 June 2006 have been fully considered but they are not persuasive.

With respect to claims 62-68, 70-76, and 78-83 of Applicant's argument that there is not suggestions or motivation either in the references of Baier (US 5,345,743) and Milikovsky (US 5,732,517) or in the knowledge generally available to one of ordinary skill in the art to modify the references or to combine them in order to teach all claimed limitations. Further, Applicant argues that the element 3 of Milikovsky is a spacer and is not a muntin bar, and Milikovsky does not disclose, teach or suggest anything about the construction of the spacer body or use of cavities in the body of the spacer, an orientation of cavities within the spacer; or teaches the opening are continuous in the longitudinally direction. With respect to claims 69-77 and 84-93 applicant argues that the combination of Hood (US 5,156,894) with previously applied combination of Baier and Milikovsky do not render the claims obvious. Therefore, the claims are patentable over prior arts.

Examiner responds that contrary to applicant's argument 1) Milikovsky (US 5,732,517) (Fig. 2) clearly shows, teaches, and suggest that the spacer structure (3) is formed from a plastic and has a cavity; 2) a muntin bar is a spacer; 3) it would have been an obvious to an ordinary skill in the art to recognize from (Fig. 2) of Milikovsky (US 5,732,517) that the opening of are continuous in the longitudinally direction which pointing from top of the paper into the paper of the drawing; and 4) it appears Applicant depending on his specification to justify the meaning of the muntin bar; and 5) Finally, Applicant does not present an argument to over come the Examiner's rejection.

In response to Applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of

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primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA) 1969.

In response to Applicant's argument that the applicant uses the element in question for a different purpose, the fact that Applicant uses it for a different purpose does not alter the conclusion that its use in a prior art device would be prima facie obvious from the purpose disclosed in the reference.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (571) 272-8113. The examiner can normally be reached on 8:30-5:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nahid Amiri  
Examiner  
Art Unit 3679  
September 13, 2006



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